ARGUMENT TO QUESTION NO. IV

The fourth question presented by the Petitioner is:

> "Where a substantial hazard to the public safety was condoned and compounded by the effect of denial of punitive damages; and where the courts gave no consideration to the rights of the public to have the benefit of Home Improvement permit regulations, was the denial abuse of discretion?"

Petitioner is asking the Supreme Court to find that the Trial Court erred when it found that "the Court finds Goudie has failed to carry her burden on punitive damages" which the D.C. Court of Appeals affirmed and, it is assumed, to ultimately reverse the case and to order that an award for punitive damages be made. No authority is cited for this novel proposition and Respondent can find no authority. The Supreme Court would be subjected to a deluge of cases were it to agree with Petitioner. Obviously, however, there is no ground for granting of the Writ on this basis. The United States Supreme Court from the time of its foundation has adhered to the principal that it will not review judgments of state courts which rest upon adequate and independent state grounds or non-Federal grounds. The decision in this case on the issue of punitive damages does rest upon adequate state grounds because it is based upon the applicable law as the District of Columbia. *Minick v. Associates Investment Co.*, 71 App. D.C. 367, 110 F.2d 267.

CONCLUSION

For the reasons stated, Respondent, Sears, Roebuck and Co. respectfully prays that the Writ be denied.

Respectfully submitted,

GEORGE H. EGGERS
Attorney for Respondent,
SEARS, ROEBUCK AND CO.
8605 Cameron Street
Silver Spring, Md. 20910

APPENDIX

DISTRICT OF COLUMBIA COURT OF APPEALS

Nos. 5914, 5915, and 5887 Consolidated

SEARS, ROEBUCK AND CO.

and

CLIMATE CONDITIONING CORP., *Appellants*

v.

WINIFRED M. GOUDIE, *Appellee*

Motion to Require Transmittal of Original Papers and Exhibits And of Appellee's Additional Designation of Record

Winifred M. Goudie, Appellee herein, moves this Honorable Court for transmittal of all original exhibits to the files of this Court, and states that:

1. Many copies are illegible, and questions for the Court can be presented more appropriately by the use of originals.

2. Many are the property of the Appellee, Goudie, who wishes them remanded to the custody of the Clerk of the D.C. Court of Appeals.

3. A list of exhibits, prepared by Mr. Trezise, Deputy Clerk, is attached. Appellee asks that these be transmitted as above, with the exception of those marked "DX", which will be submitted with her brief.

4. The items above, and others, were included in Appellee's Additional Designation of Record, filed in the Superior Court of D.C. on June 28, 1971, none of which has been transmitted to this Court in accordance with Rule 10 (b)(1) of the Rules of this Court, and Rule 10 (a)(3) of the same Rules.

WHEREFORE: Appellee, Goudie, respectfully asks this Court for transmittal of all original exhibits, and of her Additional Designation of Record, to the Clerk of this Court.

Respectfully submitted,

WINIFRED M. GOUDIE
Winifred M. Goudie, pro se
1935 S. Arl. Ridge. Rd. Arl. Va. 22202
920-1014

LIST OF EXHIBITS

Brochure entitled "Sears Heating" (Homart Furnaces, Boilers, Entire Heating Systems for Year-Around Home Comfort)

Job Invoice from Climate Conditioning Co. dated 6/8/64
Service Order, Sears, dated 9/1/65
Order No. 55-2029, "Refrigeration and Air Conditioning Licensing Regulations"
Application for Permit to Install Refrigeration System
Goudie—Business Loss (on legal-sized yellow sheet)
Floor plans of coffee shop and apartment
Invoice from Climate Conditioning Co. dated 6/8/64 (for condensate pump, permits, tubing, gas, rubbertex, freon)
Photograph of carpet (labelled Def. Exhibit 12-A)
Photograph of stairs (labelled Def. Exhibit 12-B)
Photograph of carpet (labelled Def. Exhibit 12-C)
Photograph of carpet (labelled Def. Exhibit 12-D)
Photograph of wiring (labelled Def. Exhibit 13)
Letter from Sears to Mrs. Goudie dated June 27, 1967
Application for Permit to Make Repairs or Alterations to an Existing Building
Building Permit (Repair) No. B105955
"Love and Laughter" Evening Star article, April 24, 1968
General Order to Contractor of Sears, No. 2002

General Order to Contractor of Sears, No. 190282
Estimate and Proposal, Sears, No. 488194
A Complete Maintenance Agreement, Sears, No. 96330
Service Order, Sears, No. 906906, Dated 4/25/66
Service Order, Sears, No. 449447, Dated 8/3/66
Service Order, Sears, No. 468038, Dated 8/2/66
Service Order, Sears, No. 690485, Dated 3/13/68
Service Order, Sears, No. 720908, Dated 3/14/68
Letter from H. G. Everall, Supt. to Goudie, Feb. 23, 1966
Estimate and Proposal, Sears, No. 252678, 6/27/64
Supersedeas Undertaking on Appeal 73(c), General Insurance Company of America (surety), with Sears as principal
Power of Attorney to Ronald M. Stokes, No. 3216
Memo to Judge Murphy, 3/29/71, from Richard A. Trammell, Acting Chief Deputy Clerk, Civil Division
Answer of Sears to Def's Motion for Correction and Modification of Record
Opposition of Climate Conditioning Corporation to Defendant's Motion for Correction and Modification of the Record
Motion for Correction and Modification of the Record
Duplicate file jacket on Climate v. Goudie, GS 22867-65
Jacket on Sears v. Goudie, GS 11890-66
Local Climatological Data from U.S. Dept. of Commerce, Weather Bureau
Floor Plans
File jacket in Climate Conditioning v. Goudie, GS 22867-65
Proposal: Climate to Goudie dated 2/18/64 (per Klein notation)

The above is a complete listing of the items contained in the file in *Climate Conditioning* v. *Goudie* GS 22867-63 at the time of hearing on Defendant's motion for correction of the record.

JOHN D. TRYSE
Deputy Clerk.

(Filed Dec. 9, 1971)

DISTRICT OF COLUMBIA
COURT OF APPEALS

JANUARY TERM, 1971

No. 5887

GS 11890-66

SEARS, ROEBUCK AND COMPANY, a corporation, *Appellant*,

v.

WINIFRED M. GOUDIE, *Appellee*.

No. 5914

GS 22867-65

WINIFRED M. GOUDIE, *Appellant*,

v.

CLIMATE CONDITIONING CORPORATION, *Appellee*.

No. 5915

GS 11890-66

WINIFRED M. GOUDIE, *Appellant*,

v.

SEARS, ROEBUCK AND COMPANY, *Appellee*.

Order

On consideration of the motion of appellee, Winifred M. Goudie, for transmittal of all original exhibits and of her additional designation of record heretofore filed in the Superior Court on June 28, 1971, it is

ORDERED that the Clerk of the Superior Court is hereby directed to transmit to the Clerk of this Court the originals of all exhibits introduced into evidence with the exception of those exhibits that have been returned by the Clerk to appellee, Winifred M. Goudie. Appellee at the time of

filing her brief shall not attach thereto any exhibits that copies or the originals thereof have not been certified and transmitted by the Clerk of the Superior Court as part of the record on appeal herein. Accordingly, any original exhibit in the custody of said appellee which she desires to have transmitted to this Court shall be delivered by her to the Office of the Clerk of the Superior Court for formal certification and transmittal as part of the record on appeal. It appearing from the supplemental record filed herein on November 29, 1971, that appellee's aforesaid designation of record has been transmitted to this Court, it is

FURTHER ORDERED that said appellee's motion to have the June 28, 1971, additional designation transmitted is denied as unnecessary.

BY THE COURT:

ANDREW M. HOOD,
Chief Judge.

December 9, 1971